

ELEONES BUENO v. COMMISSIONER OF CORRECTION, AC 38662

Judicial District of Tolland at Rockville

Habeas Corpus; Whether Action Rendered Moot by Petitioner's Deportation; Whether Challenged Conviction Sole Obstacle to Petitioner's Reentry; Whether Petitioner Adequately Advised of Immigration Consequences of Guilty Plea. In 2012, the petitioner was convicted of larceny in the second degree after entering a plea of guilty to that charge. He brought this habeas action in 2014, seeking that the conviction be vacated. The petitioner claimed that his guilty plea was invalid in that he did not understand that the larceny conviction might adversely impact his immigration status and that his trial attorney rendered ineffective assistance of counsel in failing adequately to advise him of the potential adverse immigration consequences of his guilty plea. The petitioner was deported to the Dominican Republic while the action was pending before the habeas court. The Commissioner of Correction moved that the action be dismissed as moot in light of the deportation, claiming that the habeas court could not afford the petitioner any practical relief by deciding the merits of his claims because, under federal immigration law, other Connecticut convictions and a Florida conviction necessarily operated to bar the petitioner's reentry to the United States. The habeas court agreed that the action was moot because the petitioner was absolutely barred from reentry by virtue of convictions other than the conviction of larceny in the second degree. The habeas court ruled in the alternative that the petitioner's claims failed on the merits, finding that his trial attorney had adequately advised him of the immigration consequences of his guilty plea and that he had entered the plea knowingly and voluntarily. The petitioner appeals, claiming first that his appellate claims are not frivolous and accordingly that the habeas court abused its discretion in denying his petition for certification to appeal its judgment. The petitioner also claims that the habeas court wrongly dismissed the habeas action as moot. He contends that the habeas court wrongly determined that convictions other than the conviction of larceny in the second degree barred his reentry under federal law. He argues that, as the conviction of larceny in the second degree stands as the sole obstacle to his return to the United States, the habeas action is not moot in that the habeas court could afford him practical relief by ordering that that conviction be vacated. Finally, the petitioner contends that the habeas court wrongly rejected his claim of ineffective assistance of counsel on finding no fault with his trial attorney's performance. The Commissioner of Correction responds that the habeas court rightly found that the action is moot because the petitioner failed to show that he would be allowed to reenter this country if the larceny conviction were vacated and claims that the petitioner failed to show that his attorney's performance was deficient or that he suffered any prejudice as a result of the allegedly deficient performance.